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LETTER DATED 16 JULY 1999 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I am writing to advise you of the views and positions of the Government of the Federal Republic of Yugoslavia on your report on the United Nations Interim Administration Mission in Kosovo (UNMIK) of 12 July 1999 (S/1999/779).

The Federal Republic of Yugoslavia takes exception to the presentation of the overall situation in Kosovo and Metohija, the autonomous province of the Yugoslav constituent Republic of Serbia. The presentation is not only perfunctory, it is also biased and tendentious. Critical in detail of the alleged transgression of the Serbian, i.e., Yugoslav, side, the report fails to address, or dilutes the true account of, the security situation in this Serbian province following the deployment of KFOR and the arrival of UNMIK. The performance of KFOR and UNMIK is assessed in very positive terms despite the fact that, in their presence, the Albanian terrorists and criminal gangs threaten, abduct and kill Serbian civilians, loot their property, evict the Serbs from their homes and apartments, occupy public institutions and businesses and burn Serbian shrines and monasteries unperturbed. The report is silent about the disarmament of the so-called "Kosovo Liberation Army" (KLA) and its responsibility for the creation of an atmosphere of anarchy and for the exodus of the non-Albanian population.

In particular, the Federal Republic of Yugoslavia takes exception to the definition of the mandate and authority of the Mission (paras. 35-42), which determine the authority and competencies of the Special Representative of the Secretary-General. They de facto suspend the sovereignty of the Federal Republic of Yugoslavia in Kosovo and Metohija and provide for an unlimited mandate of UNMIK, which constitutes a drastic violation of Security Council resolution 1244 (1999) and accompanying documents (military/technical agreement). Contrary to the definition, the resolution sets forth in clear terms the responsibilities of the international security presence in Kosovo and Metohija (para. 9) and the responsibility of the international civil presence (paras. 10 and 11). In paragraph 10 it is expressly said that the Secretary-General is authorized to establish an international civil presence in Kosovo and Metohija "in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia". The Mission should ensure transitional administration while

establishing and overseeing the development of provisional democratic institutions of self-government, aimed at ensuring a peaceful and normal life for all inhabitants of Kosovo and Metohija. This is reiterated also in annex 2 to the resolution, under point 5, which provides for the establishment of an "interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia".

The report tends to interpret the mandate of UNMIK very broadly, outside the framework provided for by the resolution. In flagrant contrast to the resolution are those paragraphs of the report related to the authority of UNMIK:

- Paragraphs 20 and 26, in which UNMIK arrogates the right to select and appoint Serbian representatives in Kosovo and Metohija;

- Paragraph 35, according to which UNMIK authority amounts to a de facto power over the territory and people of Kosovo;

- Paragraph 36, which limits the validity and implementation of the laws of the Federal Republic of Yugoslavia and of the Republic of Serbia in Kosovo and Metohija and determines that they shall be implemented only insofar as they do not conflict with internationally recognized human rights standards or with regulations issued by the Special Representative in the fulfilment of the mandate given to the United Nations by the Security Council;

- Paragraph 37, by which UNMIK arrogates the authority to administer any movable or immovable property, including monies, bank accounts and any property of or registered in the name of the Federal Republic of Yugoslavia or the Republic of Serbia or any of its organs which is in the territory of Kosovo and Metohija;

- Paragraphs 39 to 41 related to the authority and competencies of the Special Representative of the Secretary-General, by which he arrogates the right to change, repeal or suspend the existing laws of the Federal Republic of Yugoslavia and the Republic of Serbia, make appointments to public functions, including the judiciary and other civil structures, and to issue legislative acts;

- Paragraphs 60 to 62 related to UNMIK and KFOR functions which, in providing for deploying border police, constitute and attempt to derogate the Yugoslav sovereignty in violation of the resolution (para. 4 and annex, 2, para. 6);

- Paragraph 80, which envisages UNMIK involvement in creating political parties and structures in Kosovo and Metohija;

- Paragraph 93, which describes the Serbs as an ethnic minority in their own State;

- Paragraphs 101 to 109, which create a closed economic system in Kosovo and Metohija, hint at the introduction of a separate currency and, contrary to the spirit of the resolution, set up a separate economic and financial banking and tax system in Kosovo and Metohija.

The Federal Republic of Yugoslavia is expressly opposed to the provision contained in paragraph 36, according to which UNMIK will enter into arrangements "with the Federal Republic of Yugoslavia in order to facilitate UNMIK activities in territories of the Federal Republic of Yugoslavia outside Kosovo". This provision constitutes an outright distortion of the mandate of UNMIK and is a direct violation of the sovereignty and territorial integrity of the Federal Republic of Yugoslavia.

In conclusion, it could be said that, in certain essential elements, the report changes the character of Security Council resolution 1244 (1999). This is particularly true of its attempt to broaden considerably the mandate of UNMIK at the expense of the sovereignty of the Federal Republic of Yugoslavia and the Republic of Serbia. The report thus allocates only minor roles to Yugoslavia and Serbia, so as to disguise the true picture of scant respect for their sovereignty and for the provisions of the resolution. However, it is exactly the maintenance, rather than the weakening, of the sovereignty and the territorial integrity of the Federal Republic of Yugoslavia that the mandate of UNMIK is aimed at. The goal of the international security and civil presences in Kosovo and Metohija is to achieve substantial autonomy and democratic self-governance in the province rather than the creation of conditions for a future solution of its political status. Reaffirmation of the sovereignty and territorial integrity of the Federal Republic of Yugoslavia excludes every possibility of a political solution that would be contrary to it.

I should be grateful if you would have the present letter circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.